BOMBAY ACT No. XIV OF 1954.[1]

[THE BOMBAY NURSES, MIDWIVES AND HEALTH VISITORS ACT, 1954.]

[*23rd March 1954.*]

An Act to amend and consolidate the law relating to Nurses, Midwives and Health Visitors in the State of Bombay.

WHEREAS it is expedient to amend and consolidate the law relating to nurses, midwives and health visitors in the State of Bombay ; It is hereby enacted as follows :—

PART I.

Preliminary.

Short title, extent, commencement and application.

1. (*1*) This Act may be called the Bombay Nurses, Midwives and Health Visitors Act, 1954.

(*2*) It shall extend to the whole of the State of Bombay.

(*3*) Parts I, II, III, V, VI and VII of this Act shall come into force at once in the whole of the State of Bombay and shall apply to all persons referred to therein. Part IV shall come into force on such date and shall apply to such class of persons only in such areas as the State Government may by notification in the *Official Gazette* appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "affiliated institution" means an institution for the nursing of the sick, maternity or child welfare, which may be affiliated to the Council in accordance with the by-laws ;

(*b*) "by-law" means a by-law made by the Council under section 30 ;

(*c*) "Council" means the Bombay Nursing Council constituted under section 3 ;

(*d*) "institution" includes any association, which maintains or controls a nurses establishment ;

(*e*) "licensing authority" in the case of a municipal area means the municipal corporation or the municipality established for such area and in the case of any other area the district local board established for such area :

Provided that the State Government may by notification in the *Official Gazette* in respect of any area specify any other authority as the licensing authority for such area ;

(*f*) "list" means a list of nurses, midwives and health visitors prepared and kept under section 17 ;

(*g*) "nurse" includes a male nurse ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1952, Part V, pages 98-99.

(*h*) "nurses establishment" means any establishment, whether carried on for gain or not, which provides for or is intended to provide the services of persons to act as nurses, midwives or health visitors to those requiring such services;

(*i*) "prescribed" means prescribed by rules;

(*j*) "register" means a register maintained under section 12 and the expressions "registered" and "registration" shall be construed accordingly;

(*k*) "registered medical practitioner" means a person registered under the Bombay Medical Act, 1912, or registered or entered on the list under the Bombay Medical Practitioners Act, 1938, or a person whose name is entered in Part A or Part B of the register of practitioners maintained under the Bombay Homoeopathic Act, 1951; Bom. VI of 1912. Bom. XXVI of 1938. Bom. XLVIII of 1951.

(*l*) "rule" means a rule made by the State Government under section 29.

PART II.

The Bombay Nursing Council.

Establishment, incorporation and constitution of Council.

3. (*1*) The State Government may, by notification in the *Official Gazette*, establish a Council to be called "the Bombay Nursing Council" for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate and have perpetual succession and a common seal and may, by the same name, sue and be sued.

(*2*) The Council shall consist of the following twenty-two members,—

(*a*) as *ex-officio* members,—

(*i*) the Surgeon-General with the Government of Bombay;

(*ii*) the Director of Public Health for the Government of Bombay;

(*iii*) the Superintendent of Nursing Services, Government of Bombay;

(*b*) as elected members,—

(*i*) one by nurses, midwives and health visitors registered in the register under each of the following regions, namely:—

(*a*) Greater Bombay;
(*b*) Northern Division;
(*c*) Central Division; and
(*d*) Southern Division;

(*ii*) two persons to be elected by the heads of the affiliated institutions;

(*iii*) five persons to be elected as follows :—

(*a*) two, by the matrons of the affiliated institutions which have declared in the prescribed manner their principal office to be situated in Greater Bombay;

(*b*) three, by the matrons of the affiliated institutions which have declared in the prescribed manner their principal office to be situated elsewhere in the State of Bombay;

(*iv*) two persons to be elected by the sister tutors of the affiliated institutions and the heads of Nursing Colleges recognised by the Council in this behalf;

(*v*) one person to be elected by the Bombay Medical Council;

PART VI.

Training Institutions.

Training Institutions.

23. (*1*) The institutions which are approved and recognised by the Council after inspection by its representative shall be competent to train nurses, midwives or health visitors, and to send them for examination for the qualifying certificates of the Council.

(*2*) The Council may withdraw recognition from any such institution after its inspection by a representative of the Council. The order of such withdrawal shall be in writing and shall be served in the prescribed manner.

(*3*) No school, hospital or other institution which is not approved and recognised under this section shall issue to any person a certificate or enter the name of any person in any document purporting to show that such person is qualified by reason of his having passed any examination or undergone any course of training to practise as a nurse, midwife or health visitor, unless his name is registered or entered in the list under this Act.

(*4*) Any person who contravenes the provisions of sub-section (*3*) shall, on conviction, be punished with fine which may extend to Rs. 300.

(*5*) Where a person committing an offence under this section is a company or other body corporate or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Appeal against refusal to recognise institutions.

24. Any person aggrieved by the refusal of the Council to approve and recognise any institution as competent to train nurses, midwives or health visitors may appeal, within three months from the date of such refusal, to the State Government against such order of refusal. The decision of the State Government on any such appeal shall be final.

PART VII.

Miscellaneous.

Removal of names from register on notice of death.

25. Every Registrar of Births and Deaths who receives notice of the death of any person whose name he knows to be or has reason to believe is entered in any register, shall forthwith transmit by post to the Council a certificate of registration of such death signed by him and stating the time and place of death; and thereupon the name of such person shall be removed from the register.

Penalty for dishonest use of certificate.

26. Any person who—

(*a*) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him or to any other person,

(*b*) procures or attempts to procure registration under the provisions of this Act by making or producing, or causing to be made or produced any false or fraudulent declaration, certificate or representation, whether in writing or otherwise, or

(*c*) wilfully makes or causes to be made any false representation in any matter relating to the register or certificate issued under the provisions of this Act,

shall, on conviction, be punished with fine which may extend to Rs. 250 for the first offence and for any subsequent offence with fine which may extend to Rs. 500 or with simple imprisonment for a term which may extend to six months or with both.

Penalty for unlawful assumption of title of registred nurse, midwife or health visitor.

27. Any person who, not being a registered nurse, midwife or health visitor, takes or uses the name or title of registered nurse, midwife or health visitor, or uses any name, title, description, prescribed uniform, object or sign-board with the intention that it may be believed, or with the knowledge that it is likely to be believed that such person is a registered nurse, midwife or health visitor shall, on conviction, be punished with fine which may extend to Rs. 100 for the first offence and for any subsequent offence with fine which may extend to Rs. 200 or with simple imprisonment for a term which may extend to three months or with both.

Court competent to try offences under Act.

28. No court other than a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

Power of State Government to make rules.

29. (*1*) The State Government may, after previous publication, make rules to carry out all or any of the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules—

(*a*) prescribing the manner in which elections and nominations of members of the Council and the elections of the President and Vice-President shall be made and casual vacancies shall be filled under section 6 ;

(*b*) prescribing the form in which a register shall be kept, the particulars to be entered in such register, and the parts in which such register shall be divided under section 12 ;

(*c*) prescribing the courses of training and examinations entitling a person to registration, the fee payable on application for registration, the form in which such applications shall be made, and the conditions subject to which names shall be entered in the register under section 13 ;

(*d*) prescribing the causes for which, the conditions under which, and the manner in which the names of nurses, midwives and health visitors may be removed or re-entered in the register under section 14 and the manner in which the order of removal or refusal shall be served on such persons ;

(*e*) the course of instruction for and the manner in which training is required to be received by a person as a nurse, midwife or health visitor for the purpose of section 19 ;

Bom. VII of 1935. 33. (*1*) The Bombay Nurses, Midwives, and Health Visitors Registration Act, 1935, is hereby repealed. Repeal

(*2*) Nothing in sub-section (*1*) shall affect the composition of the Council as constituted under the Act so repealed (hereinafter referred to as the said Act) immediately before the date of the coming into force of this Part (hereinafter referred to as the said date) and any casual vacancy in the office of a member, President or Vice-President of the Council before the expiry of its term shall, subject to the provisions of the said Act, be filled as if Parts I, II and VII of this Act had not come into force :

Provided that the Council as constituted under the said Act shall be deemed to have been constituted under Part II of this Act and shall continue to exercise the powers and perform the duties of the Council under this Act until the expiry of the term for which it was so constituted.

(*3*) (*a*) The nurses, midwives and health visitors who immediately before the said date were enrolled on the register maintained under the said Act shall be deemed to be registered in the appropriate regions and parts of the register maintained under this Act.

(*b*) The institutions which immediately before the said date were approved and recognised by the Council to train nurses, midwives or health visitors or were affiliated institutions under the said Act shall be deemed to be likewise approved and recognised institutions or affiliated institutions, as the case may be, under this Act.

(*4*) Every appointment, order, rule, by-law, form, notification or notice made, issued or given under the said Act, in so far as it is not inconsistent with the provisions of this Act, shall continue to be in force and be deemed to have been made, issued or given under the provisions of this Act, unless and until it is superseded by any appointment, order, rule, by-law, form, notification or notice made, issued or given under this Act.

(*5*) Nothing in sub-section (*1*) shall affect any legal proceeding or remedy in respect of any right, title, interest, obligation or liability or anything done or suffered before the said date and any such proceeding shall be continued and disposed of as if this Act was not passed.

(*6*) Any reference to the Bombay Nurses, Midwives and Health Visitors Council in any law for the time being in force shall be construed as a reference to the Bombay Nursing Council.

PART VI.

Training Institutions.

Training Institutions.

23. (*1*) The institutions which are approved and recognised by the Council after inspection by its representative shall be competent to train nurses, midwives or health visitors, and to send them for examination for the qualifying certificates of the Council.

(*2*) The Council may withdraw recognition from any such institution after its inspection by a representative of the Council. The order of such withdrawal shall be in writing and shall be served in the prescribed manner.

(*3*) No school, hospital or other institution which is not approved and recognised under this section shall issue to any person a certificate or enter the name of any person in any document purporting to show that such person is qualified by reason of his having passed any examination or undergone any course of training to practise as a nurse, midwife or health visitor, unless his name is registered or entered in the list under this Act.

(*4*) Any person who contravenes the provisions of sub-section (*3*) shall, on conviction, be punished with fine which may extend to Rs. 300.

(*5*) Where a person committing an offence under this section is a company or other body corporate or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Appeal against refusal to recognise institutions.

24. Any person aggrieved by the refusal of the Council to approve and recognise any institution as competent to train nurses, midwives or health visitors may appeal, within three months from the date of such refusal, to the State Government against such order of refusal. The decision of the State Government on any such appeal shall be final.

PART VII.

Miscellaneous.

Removal of names from register on notice of death.

25. Every Registrar of Births and Deaths who receives notice of the death of any person whose name he knows to be or has reason to believe is entered in any register, shall forthwith transmit by post to the Council a certificate of registration of such death signed by him and stating the time and place of death; and thereupon the name of such person shall be removed from the register.

26. Any person who—

Penalty for dishonest use of certificate.

(*a*) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him or to any other person,

(*b*) procures or attempts to procure registration under the provisions of this Act by making or producing, or causing to be made or produced any false or fraudulent declaration, certificate or representation, whether in writing or otherwise, or

(*c*) wilfully makes or causes to be made any false representation in any matter relating to the register or certificate issued under the provisions of this Act,

shall, on conviction, be punished with fine which may extend to Rs. 250 for the first offence and for any subsequent offence with fine which may extend to Rs. 500 or with simple imprisonment for a term which may extend to six months or with both.

Penalty for unlawful assumption of title of registered nurse, midwife or health visitor.

27. Any person who, not being a registered nurse, midwife or health visitor, takes or uses the name or title of registered nurse, midwife or health visitor, or uses any name, title, description, prescribed uniform, object or sign-board with the intention that it may be believed, or with the knowledge that it is likely to be believed that such person is a registered nurse, midwife or health visitor shall, on conviction, be punished with fine which may extend to Rs. 100 for the first offence and for any subsequent offence with fine which may extend to Rs. 200 or with simple imprisonment for a term which may extend to three months or with both.

Court competent to try offences under Act.

28. No court other than a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

Power of State Government to make rules.

29. (*1*) The State Government may, after previous publication, make rules to carry out all or any of the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules—

(*a*) prescribing the manner in which elections and nominations of members of the Council and the elections of the President and Vice-President shall be made and casual vacancies shall be filled under section 6 ;

(*b*) prescribing the form in which a register shall be kept, the particulars to be entered in such register, and the parts in which such register shall be divided under section 12 ;

(*c*) prescribing the courses of training and examinations [1][(including those for auxiliary nurses and midwives)] entitling a person to registration, the fee payable on application for registration, the form in which such applications shall be made, and the conditions subject to which names shall be entered in the register under section 13 ;

(*d*) prescribing the causes for which, the conditions under which, and the manner in which the names of nurses, midwives and health visitors may be removed or re-entered in the register under section 14 and the manner in which the order of removal or refusal shall be served on such persons ;

(*e*) the course of instruction for and the manner in which training is required to be received by a person as a nurse, midwife or health visitor for the purpose of section 19 ;

[1] These brackets and words were inserted by Bom. 2 of 1955, s. 3, Second Schedule.

(*f*) prescribing the matters and manner in which and the conditions under which a licensing authority shall exercise supervision and control over the nurses, midwives and health visitors practising within the area under its jurisdiction under section 20;

(*g*) the date before which and the manner and form in which application for a licence for any nurses establishment shall be made under section 22;

(*h*) the manner in which an order of withdrawal or recognition of an institution shall be served under section 23;

(*i*) prescribing the fees payable for entering the name of any person in the list under sub-section (*2*) of section 17 and in respect of an appeal under section 15 or 24; and

(*j*) any matter which is to be or may be prescribed.

Power of Council to make by-laws.

30. (*1*) The Council may make by-laws not inconsistent with this Act or the rules—

(*a*) for regulating the compilation, maintenance and publication of the register or list and the conditions of admission to the register or list;

(*b*) for regulating the conduct of any examinations which may be prescribed as a condition of admission to the register and any matter ancillary to or connected with such examinations, including the courses of training which the candidates appearing for the examinations shall undergo;

(*c*) for determining the manner in which the list shall be maintained, the conditions which shall be fulfilled by persons whose names are to be entered in the list, the qualifying examination to be passed by persons whose names are entered in the list and for regulating the conduct of such examinations;

(*d*) for the approval of any institution for the purpose of such training and the granting of diplomas to candidates passing the examinations;

(*e*) for regulating the conditions under which institutions for nursing the sick, maternity or child welfare may be affiliated to the Council;

(*f*) for appointing a Registrar and such other servants as may be necessary;

(*g*) for regulating the pay, pension, conduct and other conditions of service of persons appointed under clause (*f*);

(*h*) for establishing a provident fund for the benefit of the employees of the Council and of affiliated institutions and regulating its administration;

(*i*) for regulating and supervising the practice of their profession by registered nurses, midwives and health visitors and by persons whose names are entered in the list;

(*j*) for regulating the publication of the names of registered nurses, midwives and health visitors and of persons whose names are entered in the list and their residence;

(*k*) for regulating the conditions under which such nurses, midwives and health visitors registered in other States or other countries may be admitted to the register, on such other States and countries granting reciprocal registration to persons registered on the register of the Council;

(*l*) for determining the form and the manner in which notices under section 21 shall be given ;

(*m*) for determining the manner of inspection of the nurses establishments by the Council, the statements to be furnished and records to be maintained by such establishments ;

(*n*) for regulating the summoning of meetings of the Council and its proceedings ;

(*o*) for determining the manner in which all fees levied under this Act and all moneys received by the Council shall be accounted for, audited and applied for the purposes of this Act, and for regulating the expenditure of the Council generally ;

(*p*) for prescribing the travelling and other expenses payable to the members of the Council or of committees ;

(*q*) for the transfer of names of persons registered from one region to another region ; and

(*r*) generally for the provision of any matters in respect of which the Council considers provision should be made for the purposes of this Act."

(*2*) No by-law made by the Council shall come into force until it has been confirmed by the State Government, with or without modification or amendment.

(*3*) All by-laws made under this section shall be published in the *Official Gazette*.

Protection of persons acting in good faith, under the Act, rules or by-laws.

31. No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.

Control.

32. (*1*) If at any time it shall appear to the State Government that the Council has failed to exercise, or has exceeded or abused any of the powers conferred upon it by or under this Act, or has failed to perform any of the duties imposed upon it by or under this Act, the State Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Council, and if the Council fails to remedy such default, excess or abuse, within such time as the State Government may fix in this behalf, the State Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period as it may think fit and thereupon the funds and property of the Council shall vest in the State Government for the purposes of this Act until a new Council shall have been constituted under section 3.

(*2*) When the State Government has dissolved the Council under sub-section (*1*), it shall take steps as soon as may be convenient to constitute a new Council under section 3 and thereupon the property and funds referred to in sub-section (*1*) shall revest in the Council so constituted.

(*3*) Notwithstanding anything contained in this Act, rules or by-laws, if, at any time, it shall appear to the State Government that the Council or any other authority empowered to exercise any of the powers or to perform any of the functions under this Act, has not been validly constituted or appointed, the State Government may cause any of such powers or functions to be exercised or performed by such person, in such manner and for such period not exceeding 6 months and subject to such conditions as it thinks fit.